

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

**STEPHEN A. PARSON, LEON BENJAMIN,
and BRUCE L. WALLER, SR.,**

Plaintiffs,

v.

Civil Action No. 3:16cv13

**JAMES B. ALCORN, in his official capacity
as Chairman of the Virginia State Board of
Elections; CLARA BELLE WHEELER, in
her official capacity as Vice-Chair of the
Virginia State Board of Elections; and,
SINGLETON B. MCALLISTER, in her official
capacity as Secretary of the Virginia State
Board of Elections,**

Defendants.

ORDER

On January 6, 2016, Plaintiffs Stephen A. Parson, Leon Benjamin, and Bruce L. Waller, Sr. filed their Verified Complaint against Defendants James B. Alcorn, Clara Belle Wheeler, and Singleton McAllister, in their official capacities as officers of the Virginia State Board of Elections. (ECF No. 1.) The Verified Complaint seeks, *inter alia*, a temporary restraining order and preliminary and permanent injunctions. (Verified Compl. 12, ECF No. 1.) To effectuate this request, Plaintiffs filed their *Ex Parte* Motions for Preliminary Injunction and Temporary Restraining Order (collectively, the “Injunctive Motions”). (ECF Nos. 2, 3.)

The Verified Complaint raises time sensitive matters. Plaintiffs contend that absentee ballots to be used in the Virginia Republican Presidential Primary “are scheduled to be made available and mailed on January 15, 2016.”¹ (Verified Compl. 3.) Plaintiffs contend that the

¹ January 15, 2016 is a state holiday in the Commonwealth of Virginia. Va. Code § 2.2-3300.

ballots as proposed violate the First² and Fourteenth³ Amendments to the United States Constitution and the Voting Rights Act, 52 U.S.C. § 10101, *et seq.*⁴ Plaintiffs first seek a temporary restraining order against mailing the absentee ballots, and preliminary and permanent injunctions against issuing the ballots at all.

It is not clear whether the defendants have been served, but the Verified Complaint is a matter of public record. However, Plaintiffs filed the Injunctive Motions and the memorandum in support *ex parte*, limiting access to only Plaintiffs and the Court. (ECF Nos. 2, 3.) Plaintiffs, in contravention of Local Civil Rule 5(A),⁵ cite no statute or law allowing these motions to proceed under seal.

The time sensitive nature of the relief sought and the importance of the issue before the Court suggest that the Court seek to minimize *ex parte* proceedings if possible. Thus, the Court will allow both Plaintiffs and Defendants to present briefing or evidence, should they decide to do so, by ORDERING the following:

1. The Clerk's Office shall UNSEAL and make public the Injunctive Motions and the memorandum in support of the Injunctive Motions (ECF Nos. 2, 3, 4);

² "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances." U.S. Const. amend. I.

³ "No State shall . . . deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." U.S. Const. amend. XIV, § 1.

⁴ "All citizens of the United States who are otherwise qualified by law to vote at any election by the people . . . shall be entitled and allowed to vote at all such elections, without distinction of race, color, or previous condition of servitude" 52 U.S.C. § 10101(a)(1).

⁵ "(A) Unless otherwise provided by law or Court rule, no document may be filed under seal without an order entered by the Court." E.D. Va. Loc. Civ. R. 5(A).


2. Not later than 12:00 p.m. (noon) on Monday, January 11, 2016, Defendants shall FILE their memoranda in response to the Injunctive Motions;

3. Not later than 12:00 p.m. (noon) on Tuesday, January 12, 2016, Plaintiffs shall FILE their reply memorandum in support of the Injunctive Motions; and,

4. On Wednesday, January 13, 2016, the Court shall HOLD a hearing on the Injunctive Motions. The hearing shall take place in Courtroom 6100, Spottswood W. Robinson, III and Robert R. Merhige, Jr. United States Courthouse, 701 East Broad Street, Richmond, Virginia, at 11:00 a.m.

Let the Clerk send a copy of this Order to all counsel of record.

It is so ORDERED.

/s/ 
M. Hannah Lauck
United States District Judge

Richmond, Virginia

Date: 1/8/16